(1)

Supreme Court, U.S.
FILED

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IN THE

Supreme Court of the United States

MATTHEW CARPENTER

Petitioner(s)

v.

PENNELL ELEMENTARY
PENN DELCO SCHOOL DISTRICT

On Petition For Writ Of Certiorari
To The Third Circuit Court of Appellee's

PETITION FOR WRIT OF CERTIORARI

MATTHEW CARPENTER
Pro se
619 N. MONROE STREET
MEDIA, PA 19063
610-565-1331

45 pp

Brief Statement

Lawyers and Judges can't understand the case, and write wrong facts not knowing that there have been so many changes that one Court Order changes another. The State of Pennsylvania, and CYS and two schools have not done their job, Even after someone made mistakes, or on purpose, there is not any disciplinary action. Here in Media, laws can be broken if you know the Master or Judge. The mother broke more than fifty (50) Court Orders and has never been disciplined. Judge Osborne was supposed to conclude my case but wouldn't after two (2) attempts, which she ORDERED. The State of Pennsylvania and CYS have made a conspiracy against me to take away my children after CYS found me unfounded more than one year ago, and this case is of such imperative importance to justify deviation from normal appellate practice and to require immediate determination in this court.

Petition For A Writ of Certiorari

1) Will the Supreme Court consider this case?

2) Why won't a Common Pleas court finish my case as she ordered, after two (2) attempts? Carpenter vs. Kleiner #98-13564 (Judge Osborne) May 15, 2002 and October 28, 2002.

3) Why can't anyone understand the facts of the case?

4) Why does everyone think I seek relief under IDEA?

5) Can the Supreme Court step in to case #98-13564 and make or order a judge (Judge Osborne) Delaware County Courthouse, Media, PA finish my case, "Carpenter vs. Kleiner" or take this one without anyone making a suggestion not to?

6) After two (2) schools wrong my daughter, can anyone stop Pennell Elementary from doing more harm?

7) Does the Supreme Court back up President Bush's "No Child Left Behind" law?

8) Can anyone stop all lawyers and judges from writing wrong facts about the case?

9) Can anyone make sure my kids are safe?

10) If I can't stop the school from doing wrong to my daughter with disabilities, can anyone?
11) What about her rights?

12) If I can't represent my children can the Supreme Court appoint me one?
13) Do you know if CYS did their job four (4) years ago when I made a big complaint to them, my family would not be in this position?

14) Why wouldn't Pennell Elementary want to get these issues resolved instead of a Motion to Dismiss?

15) Do they have something to hide?

16) What has Pennell Elementary learned from this?

17) Does this mean that Pennell Elementary is now able to get away with more with other children?

18) If you have a case with one side knowing mostly all the facts of a case, and the other party either not wanting to know the facts or the other party completely lost, how could anyone grant "Motion to Dismiss"?

19) Can the Supreme Court at least step in and make laws and make sure they are followed in Media, PA?

20) If CYS made the mother put Tiffany back in school, would she be in better shape now?

21) After all this, can anyone understand this calls for an exercise of the court's supervisory power?

22) Does anyone know when I drew up these complaints I was guided by an educational lawyer from Honorable Judge DuBois?

23) Would it have helped if Pennell Elementary had all evaluations from Upper Darby Elementary before Tiffany entered Pennell Elementary?

24) Would it have helped if the mother and her lawyer had not tried to keep me away from the school and not have talked bad about me?

25) Would it have helped if Tiffany's prior school did their job correctly, Tiffany and I would not be in this position?

26) Why was I the only one to recognize this?

27) Was this fixed too?

28) Or was the reason the mother wanted to keep Tiffany disabled so she could keep getting the $500.00 a month money to pay her rent?

29) Is this still the case?

30) Why is the school backing the mother?

31) Is this still the same or have things changed?

32) Do you know the Honorable Judge DuBois couldn't even figure out that I didn't sue for money?

33) Why on page 2 of Opinions, does the Third Circuit state that they know the history of the case when they don't?

34) Why on page 2 of Opinions, does the Third Circuit think that the Court of Common Please has ordered that there be no contact between Carpenter and his daughter?

35) Does the Third Circuit believe in exhibits or evidence?

36) Are they just picking up where Media left off?

37) Are Honorable Jan DuBois and Third Circuit Judges Nygaard, Greenberg, and Cowen new to this line of work?

38) Why wouldn't the Delaware County Courthouse allow me to file a petition on Pennell Elementary?

39) Was it because of 4 ½ hours earlier the mother filed Protection from Abuse on me?

40) Was this fixed too?

41) Does the Supreme Court allow evidence?

42) If so, can they show me?

43) Does the Supreme Court allow witnesses to testify that count?

44) Can the Supreme Court put law back in Media, PA?

45) What would the Delaware County Courthouse, the Judges, the lawyers, and CYS learn if nothing is done to correct the problems?

46) Would they think now we can get away with even more?

A List of Parties

Matthew Carpenter
Pro se

Tiffany Carpenter (my children)
Shannon Carpenter

Judge Osborne May 15, 2002 ORDER
October 28, 2002
Delaware County Court House
Media, PA (State Court)

Penn Delco School District
Pennell School Elementary Unit - Aston, PA
Karl A. Romberger Jr. - Attorney

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The ones that Appellee's and Judges state are wrong. The Appellee's State Court, CYS created these problems from not doing their job since 1998.

The one's that they list do not apply. If there are other cases that have been fixed about twenty (20) times, then they can list them. They are trying to cover-up their mistakes. (A diversion)

Judge Osborne can't follow her own ORDER (twice) and CYS breaks the other ORDER she wrote up.

Review of such adjudications must be pursed in the State Appellate system, and, if necessary, by way of review of the State's highest court in the United States Supreme Court In re Diet Drugs 282 F.3d (220, 240 3r) (Cir) 2002.

The date of judgment and ORDER to be reviewed are as follows:

Matthew Carpenter
vs.
Pennell School District Elementary Unit
D.C. Civ. No. CU - 06270
March 3, 2003 and August 9, 23, 26, 2002
Honorable Jan E. DuBois
Third Circuit Judges Greenberg, Cowen, Nygaard

Carpenter
vs.
Kleiner
DCCP #98-13564
Judge Osborne - May 15, 2002
October 28, 2002 (State Court) (never finished)

Matthew Carpenter et, al.
vs.
Delaware County Children and Youth Services
Case # 02-3428
March 4, 2003, and August 9, 23, 26, 2002.
District Judge Honorable Jan E. DuBois
Third Circuit Judges Nygaard, Greenberg, Cowen

Jurisdiction

This court has jurisdiction under 28 USC - 2101E, in that claims are under the laws of the United States. There is such an imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court.

The reasons set forth: Media, PA departed from the law. This land is lawless. Judges, cops, lawyers have made Media lawless and they don't protect children, even disabled children. A Judge makes an ORDER. CYS or mother or even that same Judge can't even follow it, with a conspiracy tagged along with it. They have so far departed from most all law and from the accepted and usual course of judicial proceedings, to call for an exercise of this court's supervisory power.

Review of such adjudications must be pursed in the State Appellate system, and, if necessary, by way of review of the State's highest court in the United States Supreme Court In re Diet Drugs 282 F.3d (220, 240 3r) (Cir) 2002.

Statement Under Rule 14

A mother of my children, Judges, lawyers, a Media cop and Children and Youth Services, have disregarded the law. They can't enforce the law, stick by the law, or even follow a Court ORDER. CYS, a Master and a mother even have caused a conspiracy against me, and CYS disobeyed a Judge's Order even to go as far as when CYS found me "unfounded" in a case when the mother accused me of hurting my daughter, they still will not let me see my daughters again. Then the same Media cop physically abused a 17 year old right in front of me, and when it went to Court the Judge protected the cop. I would have told the mother to contact CYS but they will do nothing anyway. This should certainly call for such imperative public importance as to justify deviation from normal appellate practice to require immediate determination in this Court. Media is lawless.

The Setting

This case started with the mother's boyfriend "Bill" beating up my daughter badly, Tiffany has disabilities. Then I filed a big complaint with CYS, which didn't give me any help. Then the mother of my children kidnapped my children, which led me to file for custody. The mother never got disciplined for this action. Then followed up with a tip from a Federal cop giving me a tip where the mother fled to because of some sort of underage drinking party. From the FBI tip, I found my children, then the mother charged me with stalking, harassment. I then found out that the mother's friend "Bill" beat Tiffany up badly. That is when I filed a big complaint to Children and Youth Services, who rarely did much. From then on, the mother's boyfriends have been beating up my children and CYS will do nothing. I have made over 50 complaints to CYS and they still will do nothing to help. Even a psychologist agrees (Larry More). Next came court appearances with everyone fixed against me along with a conspiracy. CYS found out that the courts protect CYS and CYS protects the courts.

January 10, 2001, I went to Pennell Elementary to see if I could get my daughter re-evaluated. They said "no".

January 29, 2001 the mother and her lawyer did not show up for court. The next court date was March 7, 2001. The Master and the mother cause a conspiracy against me or it was fixed that I lose legal custody and very bad things were written about me. Two things happened to make this possible. I went to the school and the mother never showed up for court because at that time she might have lost her kids.

This teaches me that I can have someone ask to re-evaluate Tiffany and not show up for court and I will get the kids. This should be a State court decision. They have decided not to take on this case by someone telling the Judge not to continue this case. After that, the courts and CYS have come to understand that no one can stop them.

On November 19, 2001 the mother (Kathy Kleiner) filed a protection from abuse, stating that I hurt my daughter, Shannon. Which I never did. The mother fabricated a story to CYS. Then CYS didn't make a decision on the one investigation of 30 days. Then they told me to talk to another CYS office and they sent me back to the same office. A run around story.

CYS finally found me "unfounded" on December 20, 2002, which didn't matter because I caught their lies and cover-ups.

On December 31, 2002, I went to the Courthouse and Judge Osborne made an ORDER and that said, "In light of the prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of the Children and Youth Services investigation, and said investigation now appearing complete, the Office of the Court Administer is directed to place this matter before Master Urso as quickly as possible consistent with other previously scheduled matters before the Master."

On February 1, 2002 court was set on this date. The mother and a CYS worker from another CYS office, which had nothing to do with this matter, came into court suggesting to the Master that Matthew Carpenter never to see his children again. CYS caseworker did have their lawyer present.

The Master did not allow my evidence, did not allow me to object, just let CYS take over court like she owned it. CYS, mother, and Master can get away with this since they must know that no judge in Media will care what they do.

After May 15, 2002 court ORDER that Judge Osborne wrote that somehow never happened, I decided to file a complaint against the State of Pennsylvania, in Federal Court, because Judge Osborne did not follow her own ORDER of May 15, 2002. During that time the Judge made another ORDER on October 28, 2002.

Before October 28, 2002 came I filed a large complaint against the State of Pennsylvania. When October 28, 2002 finally came, the attorney for the State of Pennsylvania and Judge Osborne talked about my case of Kleiner vs. Carpenter and State of Pennsylvania (in the transcripts). The Judge said, "Your case was dismissed" meaning they protected one another.

This definitely calls for such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court.

Argument

No one understands the case or how it came about. Judges protect one another and CYS. Media is lawless. Judge Osborne makes an Order no one follows it or she can't even follow her own order, twice. Upper Darby, Tiffany's school before Pennell, helps to start these problems, which carry over to Pennell, and once Pennell got Tiffany they haven't done their job. It was in the State's hand to resolve this, but they failed along with CYS who won't do their job either. This has left me to file against Pennell, CYS, and the State of Pennsylvania. Regardless if someone thinks I filed under IDEA, Upper Darby and Pennell failed to do their jobs. I was the only one to recognize that Upper Darby caused these problems first and even Karl agreed with me. The Delaware County Courthouse doesn't want to deal with this, nor CYS, they don't understand or care, plus I have two (2) years left of checking to see if they did their jobs right. It's pretty hard when Pennell gets a new Director of Special Education just about every year for about the last five to seven years. The one they have now came from Upper Darby which started all this.

Matthew Cuperato 5-24-03

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-3419

MATTHEW CARPENTER,

Appellant

v.

PENNELL SCHOOL DISTRICT

ELEMENTARY UNIT

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 01-cv-06270)
District Judge: Honorable Jan E. DuBois

Submitted Under Third Circuit LAR 34.1 (a)
March 3, 2003

Before: NYGAARD, GREENBERG, AND COWEN,
CIRCUIT JUDGES

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1 (a). On consideration whereof, it is now here

ORDERED AND ADJUDGED by this court that the judgment of the district court entered August 26, 2002, be and the same is hereby affirmed. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST: _____

"s/Marcia M. Waldron"

Clerk

DATED: March 3, 2003

APPENDEX B

UNREPORTED- NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-3419

MATTHEW CARPENTER,

Appellant

v.

PENNELL SCHOOL DISTRICT
ELEMENTARY UNIT

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 01-cv-06270)
District Judge: Honorable Jan E. DuBois

Submitted Under Third Circuit LAR 34. l(a)
March 3, 2003

Before: NYGAARD, GREENBERG, AND COWEN,
CIRCUIT JUDGES

(Filed: March 3, 2003)

OPINION

PER CURIAM

Matthew Carpenter appeals the District Court's order granting appellee's motion to dismiss. The details of Carpenter's claims and the procedural history of the case are well known to the parties and need not be repeated here. In short, Carpenter alleged that appellee violated his daughter's fights under the Individuals with Disabilities Education Act (IDEA). The District Court granted appellee's motion to dismiss. Carpenter filed a motion for reconsideration which the District Court denied. Carpenter then filed a timely notice of appeal.

We exercise plenary review over the District Court's order granting appellee's motion to dismiss. Gallo v. City of Philadelphia, 161 F.3d 217, 221 (3d Cir. 1998). When reviewing a complaint under Rule 12(b)(6), the Court must accept the allegations in the complaint as true. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) The Court should not dismiss a complaint unless it is clear that no relief could granted under any set of facts that could be proved. Id. A complaint by a pro se litigant is held to less stringent .standards than one prepared by a lawyer. Haines v. Kerner, 404 U.S. 519, 520 (1972).

We agree with the District Court that Carpenter may not seek relief under the IDEA. Parents do not have substantive rights under the IDEA. Collinsgru v. Palmyra Bd. of Educ., 161 F.3d 225, 236-7 (3d Cir. 1998). To the extent that Carpenter seeks to vindicate his daughter's rights, a non-lawyer parent may not represent his child in federal court. Osei-Afriyie v. Medical College of Pa., 937 F.2d 876, 883 (3d Cir. 1991). Moreover, Carpenter has no legal custody of his daughter. In fact, the Court of

Common Pleas has ordered that there be no contact between Carpenter and his daughter.

Accordingly, for essentially the reasons set forth by the District Court in its memorandum, we will affirm the District Court's August 26, 2002, order. Carpenter's motion to strike appellee's brief and appendix is denied.

APPENDEX C

Answer to Penn Delco School District

(Pennell Elementary) Karl Romonberger Letter and

Carpenter vs. Children & Youth Services

U.S.D.C. No-02 CU-625 **Today's date is** 7/10/02

Dear Judge DuBois:

I would like to thank Honorable Judge Jon DuBois for asking both defendants to look into the case. As you were right about one thing, I was very hurt on June 10th telephone conversation. As you read Pennell's letter from Karl Romonberger R.E. Carpenter vs. Penn-Delco School District U.S.D.C.E.D PA C:U:A No. 01-6270. There is a BIG problem or mistake made. Tiffany, my daughter, has been cheated for many years of schooling:

1) The mother took Tiffany out of school for about a year. (1998-1999)
2) Upper Darby did an evaluation and I.E.P. on Tiffany that was copied from 1998 and sloppy, incomplete.
3) Then Penn-Delco took the wrong results from Upper Darby (under findings part 4 (page 3) of Exhibits) which if you relate back to Penn-Delco's letter addressed to you, you will see how many problems Tiffany has. Meaning that Tiffany was probably worse back in 2000 than she is now. After receiving all reports on Tiffany, Penn Delco still did not readjust Tiffany to where Tiffany needed to be. Penn

Delco did not know all of Tiffany's problems until about 12/10/00 when I saw Penn-Delco psychologist and gave her 15 pages of her previous I.E.P. evaluation and a blue print of Tiffany's progress since 1998. Mrs. McKinny did not know how to make a copy of this blue print but she did make copies of her reports. After 3 phone calls to Karl, I still don't think he understands, and you say I can't represent without a lawyer. My guess is you won't understand. If you can't find the time to at least look at this case (I still remember you dismissed this case) bill me for the time looking to help Tiffany. I have already: Defendant's failure to read and examine Carpenter vs. Penn-Delco (answer) (my answer to Penn-Delco) before telephone conference (you said it was in the building but not in front of you) and my "memorandum" dated May 3, 2002.

Then Upper Darby reported Tiffany had trouble learning in a small group of 4. Pennell must have not read that part. They had Tiffany in a classroom size of 19 for 2000-2001 and 21 for the year 2001-2002. How could this child learn anything? Pennell still failed to state what grade level Tiffany is learning at. When I went to Pennell on 1-10-01 the teacher wrote "K" for Kindergarten but she was in First grade. I have been working on my case for about 3 ½ to 4 years meaning I have just one big one to focus on. How many cases have you been on in the last 3 ½ to 4 years?

Moving along to the CYS letter dated July 1, 2002. As I read it, I can't find anything in the CYS letter that is true. Did you know because of CYS I

haven't seen by children in 35 weeks. Let me explain: CYS and Kathy (Tiffany and Shannon's mother) worked up a scheme to take my children away from me on purpose, after knowing that Kathy made 4 or 5 unsubstantiated reports of child abuse on me around November 7, 2001. Since then CYS must think I don't care about them and don't want to see them. Plus CYS doesn't care if they disobey a judge's order. Judge Kelly wrote an Order that states, "the concerns raised by Instant Emergency Petition **SHALL** be heard by the Custody Master on November 30, 2001 at 10:00." On that day no concerns were ever heard, the Master yelled at my witness (Kelly Carpenter) and told her to sit back down when I tried to call her up to the bench. Master did not look at my evidence, did not allow me to object. (And you still think CYS had nothing to do with this.)

Then Judge Osborne wrote an Order that states: "In light of the prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of his children's Children & Youth Services investigation, and said investigation now appearing complete, the Office of the Court Administrator is directed to place this matter before Master Urso as quickly as possible **CONSISTENT WITH THE OTHER PREVIOUSLY MATTERS BEFORE THE MASTER.**"

This Order was in court February 1, 2002. Again Kathy and CYS worker (Dori Davis) who was from a different CYS office that had nothing to do with this matter, came into court on February 1, 2002, disobeys Judge Osborne's Order and changes the Master's thought process of why we were there, that being to set up new custody arrangement after CYS just found me "unfounded" and suggests to the Master that Matt Carpenter never to see his kids again. It worked, I haven't

seen them in 35 weeks. Again, I can't believe you still think CYS had nothing to do with the May 15, 2002 court date.

Note CYS has an office right in the Courthouse. How can anybody believe that CYS has a limited role in this case after about 50 of my complaints. One being Carpenter vs. Children & Youth Services U.S.D.C. No. 02-CU-625 and even Dr. More in many reports stating that CYS is no help what so ever.

How much evidence do I need? I did not make up all those things that happened to my children. I would not risk losing them over fake claims. CYS makes a 10/5/98 report and most of that report they can't even do: S.C.O.H. services – wrap around services – a nanny starting in 10/5/98. CYS was fully involved even before custody got started. They state that my case is adjourned. How did they know that? I don't even know that and I have been calling Judge's Chambers to find out a new date. When I called last summer help was in and no new date. CYS must have got it adjourned and you still do believe me about CYS might have called the Judge.

Something should happen to CYS for purposely making sure I don't get to see my children. I know why both defendants are still lying. Hon. Judge DuBois dismissed my case, and they got away with lying to a Federal Judge. Is this what happens in Federal Court, I sure would like to find out. That means I have another Defendant's failure to prosecute for lying even though Judge DuBois did me a favor by asking both defendants to look in the case. If CYS or (state) back in 1998 would have done a psychological evaluation it would have certainly helped Tiffany with her school situation. Also on November 30, 2001 (state) handed over jurisdiction to CYS

and they did nothing with jurisdiction, (state) never regained jurisdiction back, because on April 23, 2002 they failed to fill in custody arrangements (Legal custody was never awarded to mother or father). All of this, the (state) just lost jurisdiction. Now U.S. District Court has jurisdiction. This time, can you read my answer for Penn Delco and spend time reading my "memorandum."

On the issue of the children's needs: Penn-Delco couldn't provide the needs for Tiffany for the year 2000-2001 because they copied from Upper Darby reports that were wrong from 1999. How could the mother fill the needs of the children when the whole school couldn't even do that right (the ones teaching Tiffany including the principal and the psychologist)? Do you know if CYS would have done their job in July of 1998 when I made a big complaint about my children getting abused I would have gotten them back and never had to try to get custody of them? This would be over about August of 1998. CYS is getting away with so much. Am I the only one who can detect all of this and I am not even a lawyer?

As I remember, you said to CYS: "Your suppose to be an agency that protects the children, find out what you can do." The problem with that is that CYS had an inexperienced worker that didn't know much to start with. Secondly, when I made my complaints that the children weren't in school and were being abused by the mother and boyfriends, CYS representative Dori Davis couldn't locate the mother. My brother had to call CYS representative Dori Davis and tell her where my children were. Plus, when she did finally find my children, the mother dodged CYS making it impossible to follow up on my many complaints. For a four-month stretch, I had one or two complaints a week. It built up so much that Dori

Davis probably forgot more than half of what I said. Then the mother had to lie in order to keep the children with her, given the fact that Tiffany's social security money (five hundred dollars a month paid rent for the mother), plus support money (400 a month). Which I still pay but cannot see my children because CYS and the mother fabricated an injury that I hurt my daughter Shannon, which turned out to be 35 weeks so far, after CYS found me "unfounded" over six months ago. Just that alone should give you some indication that CYS doesn't have anything right. Someone needs to investigate this case from 7/98 to present. For CYS making lots of effect by deliberately taking my children away from me for thirty-five weeks, they should be forced to serve some type of discipline for their actions. That 35 weeks could even go longer than that. So far, the state has not even disciplined the mother and so for my expectations for CYS, they will do the same. I am pretty sure it is affecting the children too. Unless the mother is doing what she always does with my children, brainwashing (mental abuse). She did it with me and my son Mike; and it is still there after seven years. Another issue CYS is trying to avoid. Isn't it supposed to be in the best interests of the children?

Respectfully Submitted,

"s/Matthew Carpenter"

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

V.

CHILDREN & YOUTH SERVICES,

Defendants. NO. 02-625

DuBOIS, J. **August 9, 2002**

MEMORANDUM

I. INTRODUCTION.

Presently before the Court are Motions to Dismiss the Complaints filed in each of these related cases. Plaintiff Matthew Carpenter, proceeding pro se, filed separate suits against the Penn Delco School District ("Penn Delco" or "District"),[1] and Delaware County Children and Youth Services ("CYS") In the Penn Delco case, plaintiff asserts claims under the Individuals with Disabilities Education Act, 20 U. S.C. § 1401, et seq. ("IDEA"), on behalf of himself and his daughter, Tiffany Carpenter, a student at the Pennell Elementary School, seeking both money damages and injunctive relief. In the CYS case, plaintiff asserts claims under IDEA on behalf of himself and both of his daughters, Tiffany and Shannon Carpenter, seeking money damages and injunctive relief, including custody of his daughters. In addition, plaintiff seeks relief that may be available only under 42 USC § 1983 and the Rehabilitation Act, 29 U.S.C. § 794, although he does not mention those statutes in his Complaints. For the reasons set forth below, the Motion to Dismiss both cases will be granted.

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[1] Plaintiff named "Pennell School District Elementary Unit" as the defendant in the first suit, No. 01-6270. The real party in interest is Penn Delco School District.

II BACKGROUND

Plaintiff has two daughters, Shannon and Tiffany Carpenter. Kathy Kleiner, the mother of the children, has sole legal custody of the children as a result of the Court of Common Pleas of Delaware County's orders dated March 7, 2001, and November 30, 2001. Both of plaintiff's Complaints relate to his concerns about the welfare of his children.

In the Penn Delco suit, plaintiff filed a pro se Complaint against "Pennell Elementary School," the school where Tiffany Carpenter is enrolled, on December 12, 2001, and moved to proceed in forma pauperis. On December 27, 2001, this Court, by Memorandum and Order, granted the motion to proceed in forma pauperis, but dismissed the Complaint without prejudice on the ground that it was legally frivolous. See Carpenter v. Pennell Sch. Dist. Elem. Unit, No. 01-6270, 2001 WL 1667566 (E.D. Pa. Dec. 27, 2001). Plaintiff filed the current pro se Amended Complaint on February 6, 2002. The District filed a Motion to Dismiss on May 13, 2002.

Plaintiff' s daughter, Tiffany Carpenter, is a child with special needs, of which needs the District is aware. In the past, plaintiff has been to the school and participated in matters related to Tiffany's education. Plaintiff alleges that on January 10, 2001, he requested that the District evaluate Tiffany, and that the District declined to conduct such an evaluation at that time.[2]

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[2] In correspondence to the Court, the District reported that, in 2001, it adopted the evaluation of Tiffany Carpenter performed by her former school district, Upper Darby School District, and that it re-evaluated Tiffany Carpenter in January 2002. The parties' dispute as to the District conducted the proper evaluations does not affect the Court's disposition of the pending motion

In his Complaint, plaintiff sets forth an exhaustive list of alleged "failures" on the part of the District with respect to Tiffany's education. This list includes dozens of alleged violations under IDEA and Pennsylvania statutory law and regulations.

Plaintiff seeks relief against the District in the form of an immediate re-evaluation of Tiffany. He also seeks compensatory education, damages, "wrap-around" services, an educational placement that can meet Tiffany's needs, an investigation with CYS in conjunction with the District, a declaratory judgment that defendant violated plaintiff's rights, and a hearing before a Grand Jury.

In the suit against CYS, plaintiff filed his Complaint on February 6, 2002, the same date on which he filed his Amended Complaint against the District. On April 3, 2002, CYS filed a Motion to Dismiss. Plaintiff's claim against CYS includes at least seven different categories of allegations of CYS's failures to act, including its (1) failure to remove plaintiff' s children from the custody of their mother; (2) failure to locate the children when their mother relocated; (3) failure to investigate allegations of abuse; (4) failure to act on plaintiff's complaints; (5) failure to transport the children for visitation; (6) failure to prevent mental abuse of the children; (7) and failure to investigate Tiffany's "school situation."

Plaintiff seeks the following forms of relief in the CYS suit: (1) this Court's assumption of jurisdiction over the custody matter; (2) a declaratory judgment stating that CYS violated plaintiff' s rights; (3) "wrap-around" services for Tiffany and Shannon; (4) placement of this case before a Grand Jury; (5) custody of Tiffany and Shannon; and (6) $25 million.

Because plaintiff's allegations in both cases raise similar issues, and because plaintiff is proceeding pro se, the Court held a telephone conference with all parties on

June 10, 2002. During the conference, the Court explained the applicable law to pro se plaintiff and told him that neither of his Complaints states a cause of action. In addition, in an effort to facilitate a resolution of these cases, the Court requested that counsel for each defendant look into plaintiff' s concerns with respect to his Tiffany's education and the custody matter and report to the Court and plaintiff. Both defendants complied with the Court's request,[3] but the parties have been unable to resolve their differences.

Accordingly, the Court will now address the issues raised in the pending motions.

III DISCUSSION

A. PLAINTIFF'S CLAIMS AGAINST THE DISTRICT AND CYS UNDER IDEA

Plaintiff may not seek relief under IDEA for several reasons. First, plaintiff may not bring suit on his own behalf under IDEA because, as the Third Circuit held in Collinsgru v. Palmyra Bd. of Educ., 161 F.3d 225, 227 (1998), he does not have substantive rights under that Act. In Collinsgru, the Third Circuit discussed at length the consideration of parental rights under IDEA, and held that although IDEA provides parents with some individual procedural rights, "Congress's decision to endow parents with these procedural rights should not be read, under the language of the IDEA, to imply that parents also possess the same underlying substantive rights that their children possess." Id. at 227. Furthermore, the Collinsgru court refused to read joint parental substantive rights into IDEA, holding, "[b]ecause neither the statutory language nor the legislative history clearly implies that Congress intended

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[3] The Court extends its appreciation to defense counsel for proceeding in this manner

parents to have joint rights with their children under the IDEA, we will not read joint rights into the Act." Id. at 235. Thus, plaintiff may not assert any of his own - or joint - substantive rights under IDEA.

Second, plaintiff may not prosecute claims on behalf of his children. The Third Circuit has held that pro se non-lawyer parents may not represent their children in federal proceedings. See Collinsgru, 161 F.3d at 231 (citing Osei-Afriyie v. Medical College of Pa., 937 F.2d 876, 883 (3d Cir. 1991)) ("It is...well-established in this Circuit that the right to proceed pro se in federal court does not give non-lawyer parents the right to represent their children in proceedings before a federal court."). As the Third Circuit has explained, the purpose of this rule is to protect the interests of the children: "[i]t goes without saying that it is not in the interest of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected." Osei-Afriyie, 937 F.2d at 883 (citing Meeker v. Kercher 782 F.2d 153, 154 (10th Cir. 1986)).

Plaintiff may not bring these suits against the defendants on behalf of his children for another reason: he is not the legal custodian of his daughters. Kleiner, the girls' mother, maintains sole legal and physical custody of both children. Under IDEA, only a parent may bring suit on behalf of a child. IDEA defines a "parent" to include either a legal guardian or a surrogate parent. 20 U.S.C. § 1401(19). The legal definition of parenthood under IDEA incorporates state law. "[N]othing in the IDEA overrides states' allocation of authority as part of a custody determination." Navin v. Park Ridge Sch. Dist. 64, 270 F.3d 1147, 1149 (7th Cir. 2001). In this case, the state court

orders giving Kleiner sole custody extinguished all of plaintiff's legal rights as a parent under IDEA.[4] Plaintiff therefore has no legal rights as a parent under IDEA.

B. PLAINTIFF'S REMAINING CLAIMS AGAINST CHILDREN AND YOUTH SERVICES

To the extent plaintiff seeks relief under § 1983 or the Rehabilitation Act, he may not do so because the relief sought by plaintiff is dependent, in one form or another, upon a reversal or modification of the state court's custody decree. First, the Court has no jurisdiction over a custody matter, which is purely a state law issue. Second, because plaintiff seeks reversal of the custody decree, the Rooker-Feldman doctrine bars the Court from considering this request. "That doctrine prevents a federal court from exercising jurisdiction 'when in order to grant the federal plaintiff the relief sought, the federal court must determine that [a] state court judgment was erroneously entered or must take action that would render that judgment ineffectual.'" Southeastern Pa. Transp. Auth. v. Pa. Pub. Util. Comm'n-, 2002 WL 1485267, at * 13 (ED. Pa. July 12, 2002) (quoting FOCUS v. Allegheny County Court of Common Pleas-, 75 F.3d 834, 840 (3d Cir. 1996)).

IV. CONCLUSION

For the foregoing reasons, the Court will grant the motions of both defendant Penn Delco School District and defendant Children and Youth Services to dismiss the Complaints and enter judgment in favor of defendants and against plaintiff.

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[4] The Court of Common Pleas' custody order directs that there be "no contact of any kind between father & children." District's Ex. B.

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

v.

CHILDREN & YOUTH SERVICES, NO. 02-625

Defendants.

ORDER

AND NOW this 9th day of August, 2002, upon consideration of the Motion to Dismiss Amended Complaint of Defendant Penn Delco School District, incorrectly named Pennell School District Elementary Unit No. 01-6270, Document No. 10, filed May 13, 2002); defendant Children and Youth Services' Motion to Dismiss Plaintiffs' Complaint (No. 02-625, Document No. 6, filed April 3, 2002); and related filings, for the reasons stated in the attached Memorandum, **IT IS ORDERED,** as follows:

1. The Motion to Dismiss Amended Complaint of Penn Delco School District, incorrectly named Pennell School District Elementary Unit (No. 01-6270, Document No. 10, filed May 13, 2002) is **GRANTED** and plaintiff's Amended Complaint (No. 01-6270, Document No. 4, filed February 6, 2002) is **DISMISSED WITH PREJUDICE**; and **JUDGMENT IS ENTERED** in **FAVOR** of defendant, Penn Delco School District, incorrectly named Pennell School District Elementary Unit, and **AGAINST** plaintiff, Matthew Carpenter;

2. Defendant Children and Youth Services' Motion to Dismiss Plaintiffs' Complaint (No. 02-625, Document No. 6, filed April 3, 2002) is **GRANTED** and plaintiff's Complaint (No. 02-625, Document No. 1, filed February 6, 2002) is **DISMISSED WITH PREJUDICE**; and **JUDGMENT IS ENTERED** in **FAVOR** of defendant, Children and Youth Services, and **AGAINST** plaintiffs, Matthew Carpenter, Tiffany Carpenter, and Shannon Carpenter.

BY THE COURT:

"s/Jan E. DuBois"
JAN E. DUBOIS, J.

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW CARPENTER,

Plaintiff, CIVIL ACTION

v.

PENNELL SCHOOL DISTRICT ELEMENTARY UNIT, NO. 01-6270

Defendants.

MATTHEW CARPENTER, TIFFANY CARPENTER, and SHANNON CARPENTER,

Plaintiffs, CIVIL ACTION

v.

CHILDREN & YOUTH SERVICES, NO. 02-625

Defendants.

ORDER

AND NOW this 23rd day of August, 2002, the Court having received on August 22, 2002, a document entitled "Amended Memorandum" signed by plaintiff, Matthew Carpenter,[1] which submission the Court will treat as a Motion for Reconsideration of this Court's Memorandum and Order dated August 9, 2002, **IT IS ORDERED** that the "Amended Memorandum" submitted by plaintiff, Matthew Carpenter, treated as a Motion for Reconsideration of this Court's Memorandum and Order dated August 9, 2002, is **DENIED** for the reason that the Court in its Memorandum and Order of August 9, 2002, considered all of the issues raised in the "Amended Memorandum."[2]

BY THE COURT:

"s/Jan E. DuBois"

JAN E. DUBOIS, J.

[1] The original of the "Amended Memorandum" shall be docketed.

[2] Plaintiff, Matthew Carpenter, is advised that he has a right to appeal the denial of the relief sought in his "Amended Memorandum," treated as a Motion for Reconsideration. In the event he chooses to appeal, he must file a Notice of Appeal in this Court within thirty (30) days of the date of this Order. In addition, he must comply with all of the requirements of the United States Court of Appeals for the Third Circuit with respect to the filing of appeals.

APPENDIX G

December 6, 1999

Dave Sanderson, Principal
Upper Darby School District, Kindergarten Center

RE: Tiffany Carpenter dob: *10/7/92*

Dear Mr. Sanderson,

At my suggestion, my client Matthew Carpenter gave permission for me to supply you information regarding his daughter (the above student) that may be of use to you. I was struck by the paucity of psycho-social information in the recent IEP reevaluation (10/14/99), as I think this area has a great bearing on the possibility of Tiffany making effective use of the educational accommodations you are making available to her.

My client has informed me that he has been in contact with you on occasion regarding Tiffany (as well as about her sister); and I therefore assume that you are well aware of the extreme divisiveness between her separated parents. This in itself is of significance in its contribution to behavioral and learning difficulties that are observed at school, and even more importantly in the likelihood of outside-school compliance and support for learning.

Disrupted and outright non-compliance with court-ordered visitation, charges of harassment, frequent court appearances, involvement of both parents with CYS Protective services (in the past as well as present), and so on, are all the order of the day with this family and around this student.

Obviously, since I see only the father in this case, I have only his perspective and reports on which to base my provisional conclusions in many areas.

Nevertheless, if even a part of his reports are accurate, there is grave cause for concern and the involvement of CPS (Dori Davis, social worker) is well warranted. My client reports that his daughters come to him unkempt, frequently with urine-soaked or feces smeared underwear, fearful of talking to father about events at mother's home. (He reports that when with him, Tiffany often reacts to being reprimanded or corrected by tears and urinating.) He reports that needed medicines and clothes needed by Tiffany often do not accompany her on visitation. In short, Mr. Carpenter accuses the girls' mother of criminal neglect, mistreatment, and lack of proper care.

As you might imagine, given the extremely adversarial nature of the parental relationship in the current climate of legal caution by service providers of all kinds, Mr. Carpenter has great difficulty taking his children for medical treatment and reviewing their medial history and treatment information. He has experienced what appears to me to be very prejudicial and dismissive attitudes from the court and legal system in his attempt to redress his concerns. Dealing with CYS protective services has also brought innumerable frustrations, no substantive results, and in my own view, few benefits to the children. Similarly, my impression is that in involving Mr. Carpenter in the educational process, you are taking a step that is proper, but potential problematic since it is (likely) against the mother's wishes.

My feeling is that you will not find Mr. Carpenter himself a problem, but he is persistent and is seriously interested in his daughters' education and welfare in general. I have

known Mr. Carpenter for approximately 1½ years. His intent in coming to this agency was to resolve his upset over the breakup of his relationship with the girls' mother; but it has since
proceeded to his learning to deal with his own disrupted life situation as well as his girls' special needs effectively as well as with the severely disrupted situations of visitation, child support, and ultimately, their welfare.

Although Mr. Carpenter's own mental status was an issue brought to the court by the girls' mother, and inadequately assessed in the (as of yet incomplete) custody evaluation, I can professionally assure you that this is a non-issue, though Mr. Carpenter's life is not without its problems (such as extended family conflict, appropriate housing, and some parenting and other life-skill deficits). The latter I know intimately through my contact with him - our work together addresses them directly. While I cannot assess whether the father would be the "better" custodial parent as he claims, since I do not know the mother at all, and I am well aware of difficulties that Mr. Carpenter would have to face if he did have full/substantial custody of the children.

However, I can say with confidence that, from the very beginning, Mr. Carpenter's concern about the children's welfare has been markedly evident, and this has been consistent throughout our contact. In fact, the welfare of the children, and what he can do for them from his weak position, has been the total content of many counseling sessions. Over the year and a half, his concern has proven to be consistent, sincere, and genuine.

I am writing this in an attempt to give you some sense of how to take Mr. Carpenter's contact with you, as well as to provide a certain amount of background information

relevant to the children. It is my guess that you already see a number of the problems I have referred to in their effect on Tiffany's (poorly-controlled) behavior in school, emotional and social immaturity, appearance, self-care habits, her attendance, perhaps physical health issues and so on. While a number of these deficits can be attributed to neurological and organic causes, a number of them, - and additional aspects, such as the severity of some deficits, any less-than-expected-progress with them, the difficulty of developing adequate management of the difficulties and deficits that are present - are directly attributable to the seriously disrupted psycho-social circumstances within which she lives, the attitudes and interpersonal treatment to which she is exposed, and so on. Behavioral management in the school, as well as the understanding of what is occurring and planning for future school participation are dependent to a degree on some understanding of these factors.

Since my client has given me permission to discuss anything he has told me which might benefit the children, if you have any questions (about him, his views of mother, of children's educational needs, his relationship with them, etc.), please do not hesitate to contact me, as I would be glad to provide what might be of use to you in behalf of the children.

Sincerely,

D. Laurence More, M.Ed.
PA licensed psychologist
PRA staff therapist

APPENDIX H

COUNTY OF DELAWARE
DEPARTMENT OF HUMAN SERVICES

OFFICE OF
CHILDREN & YOUTH SERVICES

December 20, 2001

Matthew Carpenter
619 North Monroe Street
Media, PA 19063

Re: Shannon Carpenter
ChildLine # 23-18963

Dear Mr. Carpenter,

The Child Protective Services investigation conducted by this agency is now complete. A status determination of "Unfounded" has been reached on the report of abuse of the above named child and filed with ChildLine, the Statewide Child Abuse Registry. An Unfounded report means that the allegations were not substantiated as defined by the Child Protective Services Law.
The report of suspected child abuse will be maintained in the pending complaint file at ChildLine for one year after the date the report is received by ChildLine. ChildLine will expunge the report within 120 days of the end of the one-year period. Children and Youth Services also will expunge the report from our agency files because ongoing services will not be provided by the agency.
Your cooperation during the investigation has been greatly appreciated.

Sincerely,
"s/ Susan Fuller, BA"
Susan Fuller BA
Intake Caseworker

APPENDIX I

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

No. 98-13564

Matthew Carpenter
Vs.
Kathy Kleiner **IN CUSTODY**

ORDER

AND NOW, this 31st day of December, 2001, upon consideration of the Emergency Petition for Special Relief in the Nature of Custody filed on this date by Matthew Carpenter together with the documents attached to that Petition, it is hereby ORDERED AND DECREED that the Office of the Court Administrator shall relist the above-captioned custody action before Master Francis Urso pursuant to the request of that Master contained in Paragraph B of the Temporary Custody Order recommended by Master Urso on November 30th, 2001.

In light of the prohibition therein against any contact between Matthew Carpenter and his minor children pending completion of the Children and Youth Services investigation, and said investigation now appearing complete, the Office of the Court Administrator is directed to place this matter before Master Urso as quickly as possible consistent with the other previously scheduled matters before the Master.

BY THE COURT:
"s/ Ann Osborne"
ANN OSBORNE, JUDGE

APPENDIX I

COURT OF COMMON PLEAS

DELAWARE COUNTY
THIRTY-SECOND JUDICIAL DISTRICT
COURTHOUSE
MEDIA, DELAWARE COUNTY, PENNSYLVANIA
19063
(610) 891-4642
FAX (610) 891-5496

February 27, 2002

Matthew Carpenter
619 N. Monroe Street
Media, PA 19063
REGULAR MAIL
CERTIFIED MAIL
7099 3400 0005 4020 2698

Deborah L. Roffman, Esq.
339 West Baltimore Pike
Media, PA 19063

RE: CARPENTER vs KLEIMER
98-13564

Dear Counsel:

The above matter is now scheduled on my list for Trial on Wednesday, May 15, 2002. **The case** will be called at 10:00 a.m. that **morning.**

The case will be tried to completion, once begun. Witnesses must be available to either testify in person or by deposition. During the course of the trial, please be

prepared to present to the Court and tile opposing counsel copies of any cases upon which counsel rely regarding resolution of legal issues.

No **later than** Monday, May 6, 2002, **please submit** a written trial **memorandum including the following:**

1. A brief summary of the claim or defense to be presented and the issues that will be before the court for decision.
2. A list of the names and addresses of all witnesses who may be called to testify by the party filing the memorandum.
3. A statement of the legal issues in the case, including any unusual questions of evidence.
4. A list of all exhibits to be introduced at trial.
5. A brief statement of any in limine motions that will be filed. All in limine motions must be served upon the opposing counsel and the Court prior to the date of the trial memorandum required above.
6. Exhibits need not be pre-marked; they will be marked by the Court's clerk during the trial. Please bring sufficient copies of any document, which you intend to introduce into evidence.

In matters involving the determination of martial property, the attention of all counsel and parties acting on their own behalf is directed to the requirements set forth in Pa. R.C.P. No. 1920.33. Courtesy copies of all filings pursuant to this Rule must be delivered to chambers no later than fourteen (14) days before the scheduled trial date. Attention is similarly directed to the potential sanctions set forth in Pa. R.C.P. No. 4019©.

In other matters, all evaluations, expert reports, names and addresses of witnesses and exhibits shall be exchanged between or among counsel pursuant to the Rules of Civil Procedure, but in no event later than 10 days prior to the date of trial. Failure to comply may result in undisclosed material being excluded from evidence by the Court.

This Court will not grant continuance of trial for failure to comply with the above directive. All counsel and parties are hereby advised that continuances of trial will be granted only in extraordinary circumstances. Counsel are requested to immediately inform chambers if a resolution has been reached in any matter before the Court.

This matter will be tried in a Courtroom to be announced. Please do not hesitate to call my chambers if you have any questions or if we can help you in any way prior to Trial.

Please note that trial days are limited. Please notify chambers as soon as possible if this case has been settled, so the scheduled days can be devoted to another case.

Very truly yours,

"s/Ann Osborne"
Ann Osborne, Judge

AO/TV
Enclosure

cc: Court File
Office File

APPENDIX K

COURT OF COMMON PLEAS

DELAWARE COUNTY
THIRTY-SECOND JUDICIAL DISTRICT

COURTHOUSE

MEDIA, DELAWARE COUNTY, PENNSYLVANIA

19063

(610) 891-4642
FAX (610) 891-5496

August 8, 2002

Matthew Carpenter
619 N. Monroe Street
Media, PA 19063
REGULAR MAIL
CERTIFIED MAIL
7099 3400 0005 4020 2483

Deborah L. Roffman, Esq.
339 West Baltimore Pike
Media, PA 19063

RE: CARPENTER vs KLEIMER
98-13564

Dear Counsel:

The above matter is now scheduled on my list for Trial on Monday, October 28, 2002. **The case** will be called at 10:00 a.m. that **morning.**

The case will be tried to completion, once begun. Witnesses must be available to either testify in person or by deposition. During the course of the trial, please be prepared to present to the Court and tile opposing counsel

copies of any cases upon which counsel rely regarding resolution of legal issues.

No **later than** Monday, October 21, 2002, **please submit** a written trial **memorandum including the following:**

1. A brief summary of the claim or defense to be presented and the issues that will be before the court for decision.
2. A list of the names and addresses of all witnesses who may be called to testify by the party filing the memorandum.
3. A statement of the legal issues in the case, including any unusual questions of evidence.
4. A list of all exhibits to be introduced at trial.
5. A brief statement of any in limine motions that will be filed. All in limine motions must be served upon the opposing counsel and the Court prior to the date of the trial memorandum required above.
6. Exhibits need not be pre-marked; they will be marked by the Court's clerk during the trial. Please bring sufficient copies of any document, which you intend to introduce into evidence.

In matters involving the determination of martial property, the attention of all counsel and parties acting on their own behalf is directed to the requirements set forth in Pa. R.C.P. No. 1920.33. Courtesy copies of all filings pursuant to this Rule must be delivered to chambers no later than fourteen (14) days before the scheduled trial date. Attention is similarly directed to the potential sanctions set forth in Pa. R.C.P. No. 4019©.

In other matters, all evaluations, expert reports, names and addresses of witnesses and exhibits shall be exchanged between or among counsel pursuant to the Rules of Civil Procedure, but in no event later than 10 days prior to the date of trial. Failure to comply may result in undisclosed material being excluded from evidence by the Court.

This Court will not grant continuance of trial for failure to comply with the above directive. All counsel and parties are hereby advised that continuances of trial will be granted only in extraordinary circumstances. Counsel are requested to immediately inform chambers if a resolution has been reached in any matter before the Court.

This matter will be tried in a Courtroom to be announced. Please do not hesitate to call my chambers if you have any questions or ff we can help you in any way prior to Trial.

Please note that trial days are limited. Please notify chambers as soon as possible if this case has been settled, so the scheduled days can be devoted to another case.

Very truly yours,

"s/Ann Osborne"
Ann Osborne, Judge

AO/TV
Enclosure

cc: Court File
Office File